

obvious as well. More specifically, the Examiner states that each of the ingredients is shown within the prior art and that one of ordinary skill would use these ingredients in combination with one another and in the specified amounts. For the following reasons, these rejections are respectfully traversed.

There are various significant differences between the Kobylivker et al. film and the claimed invention. As a starting point, one should note that the claimed invention is a medical adhesive tape or sheet. For such a device to adhere to a patient, it must have a specialized adhesive layer to promote attachment to the body, as is clearly set forth in claim 1. Moreover, for such an adhesive to work properly in health care applications, the adhesive must be pressure sensitive and capable of being removed without damaging the surface of a wound or other sensitive area. As anyone who has ever had a dressing removed from a wound can appreciate, the type of adhesive must be carefully chosen to provide enough adhesion to stick to the body, but the adhesive must also allow removal of the dressing without undue pain to the subject or damage to the skin.

By contrast, Kobylivker et al. shows an article that has a completely different structure and use. While the Examiner characterizes the Kobylivker et al. reference as teaching "medical adhesive articles" as the bottom of page 2 of the Office Action, this conclusion is not supported in the patent. For instance, at column 2, lines 46-56 and column 9, lines 55-65, Kobylivker et al. indicates that the film may be useful for the manufacture of gowns, gloves, and other types of medical apparel. However, none of the cited text states or even suggests that the Kobylivker et al. article could be used as an adhesive tape or a sheet and be applied directly to a patient, which is a feature of the claimed invention.

The Examiner in a telephone conversation with Applicant's representative pointed to column 8, lines 45-50 of Kobylivker et al. as showing that an adhesive was present in the article described by that reference. The Examiner stated that the composition of the supporting substrate (a low crystallinity polypropylene polymer with a particulate filler) in Kobylivker et al. was very similar to the supporting substrate of the claimed invention, and that the differences in the adhesive were too small, in his view, to constitute a patentable difference.

With respect to the Examiner's argument concerning Kobylivker et al. showing the use of an adhesive, the particular paragraph referred to by the Examiner at column 8 of Kobylivker et al. is with respect to permanently bonding the film to one or more substrates. This is quite different from

the adhesive layer on the substrate of the present invention. Particularly, at pages 23 and 24 of the present application, general classes of adhesives are discussed and it is clear that these adhesives are for purposes of temporarily adhering the medical adhesive tape or sheet to an object, such as a patient.

Furthermore, the particular uses of Kobylivker et al. are strictly related to medical gowns, caps, aprons, and related apparel which is quite different from first-aid adhesive tapes. In addition, the benefits achieved and mentioned in the present application with respect to stress relaxation ratios as well as the other benefits mentioned in the examples would not be relevant to the uses specified in Kobylivker et al. and therefore, these particular benefits would not be obvious in view of Kobylivker et al. nor would one skilled in the art be motivated to use a polymeric film of Kobylivker et al. for the particular uses set forth in the present application, namely a first-aid adhesive tape. The particular adhesive tape including the adhesive layer and possibly the separator would simply not be uses taught or suggested by Kobylivker et al. since Kobylivker et al. was not concerned with the particular problems solved by the present application.

Therefore, in view of the large differences in structure and potential uses between the claimed invention and the article shown in Kobylivker et al., it is clear that Kobylivker et al. does not anticipate the claimed invention. Accordingly, in light of all the reasons set forth above, this rejection should be withdrawn.

As for the obviousness issue, the Examiner states that each of the ingredients is shown within the prior art and that one of ordinary skill would use these ingredients in combination with one another and in the specified amounts to produce the claimed invention. This is simply not true, for various reasons set forth below. For instance, this analysis assumes that the adhesive used in the claimed invention is an obvious variant of the adhesive used in Kobylivker et al.

While there are various portions of the cited patent where adhesives are mentioned, such as at column 2, lines 46-49, column 8, lines 46-49, or column 9, lines 35-55, these portions all refer to permanently bonding a film layer to some sort of substrate to form an article. Therefore, any use of Kobylivker et al. as a starting point could not lead to the claimed invention. The claimed invention is not designed to be permanently bound to any substrate, because the adhesive used in the claimed invention is not a permanent adhesive.

Adhesives vary greatly; this is why there are literally hundreds, if not thousands, of different adhesives known. The properties that make an adhesive suitable for one application may make it

unsuitable for a different application. This is especially true in the present context. An adhesive that permanently bonds a tape or dressing to a person's skin, particularly the sort of sensitive or damaged skin found in surgical wounds, might possibly be disastrous in patient care applications. A permanent adhesive is completely different from the pressure sensitive adhesive layer of the present invention, in which an essential characteristic of the adhesive concerns its removability from skin.

At pages 23 and 24 of the present application, the general classes of adhesives used in the claimed invention are discussed in detail. It clearly is inferred that these adhesives are for purposes of temporarily adhering the medical adhesive tape or sheet to a living person, such as a patient. Accordingly, the adhesives of the claimed invention cannot be irritating to skin, which is why the acrylic adhesives are especially preferred, as set forth at page 23, fourth full paragraph.

No similar considerations of removability or non-irritation are discussed in Kobylivker et al., nor would the permanent laminations discussed in that reference lead a person skilled in the art to substitute an adhesive having different properties. The fact that a permanent adhesive is used is unequivocal evidence that the Kobylivker et al. is confined to applications in which the film is permanently bound to another structure. In such applications, removability is an extremely undesirable characteristic, and the main focus of lamination operations is ensuring that once two layers are bonded together, that they never delaminate. Permanent adhesives of the type useful in lamination operations naturally lead away from any consideration of a removable adhesive or any application based on removable adhesives. For this reason, a person skilled in the art in possession of the Kobylivker et al. reference would not change the nature of the adhesive unless he had an intention to create a totally different invention, i.e., a medical adhesive tape that could be applied directly to human skin and removed later. However, such an article is not found or suggested in Kobylivker et al. and therefore it must arise through the improper use of hindsight.

Therefore, the physical characteristics of the adhesive layer will vary depending on the type of the adhesive, specifically whether the adhesive is used to removably attach a film to the skin, or permanently adhere the film to a substrate in order to create a laminate. This is another reason why the teachings of Kobylivker et al. lead away from the claimed invention and could not be used to generate the claimed invention.

Finally, it is clear that the stress relaxation ratios set forth at page 23, first full paragraph of the application, are an important component of the claimed invention, and are not shown or

suggested by Kobylivker et al. When a medical adhesive tape is attached directly to skin, particularly skin that is sensitive or damaged, it is clear that the flexibility is an extremely desirable quality. Although a medical garment may be in close contact with skin, it does not need to match every contour of the skin or respond to every movement of the body to function well. By contrast, a medical adhesive tape that is adhered directly to the skin preferably matches all the contours of the skin and is able to accommodate movement of the body in order to perform its intended function.

In other words, the ability of the medical adhesive tape to flex or deform is an important characteristic of the claimed invention and is intimately related to both the comfort of the user and the ability of the tape to adhere to the skin in spite of movements of the body. A person in possession of Kobylivker et al. reference would have no reason to seek the particular stress relaxation ratios of the claimed invention, because they are utterly unrelated to the applications shown in Kobylivker et al., in which flexibility is not an important consideration. Therefore, a person of ordinary skill in the art in possession of the teachings of Kobylivker et al. would not be able to generate the claimed invention using that reference as a starting point.

In summary, the benefits achieved and discussed in the present application with respect to a specialized pressure sensitive adhesive, the unique stress relaxation ratios, as well as the other benefits mentioned in the examples, would not be relevant to the uses specified in Kobylivker et al. Therefore, these particular benefits would not be obvious in view of Kobylivker et al., nor would one skilled in the art be motivated to use a polymeric film of Kobylivker et al. for the particular uses set forth in the present application, namely a first-aid adhesive tape. The particular medical adhesive tape including the adhesive layer and possibly a separator would simply not be uses or articles taught or suggested by Kobylivker et al., since Kobylivker et al. was not concerned with the particular problems solved by the present application. Accordingly, in light of all the above, this rejection should also be withdrawn.

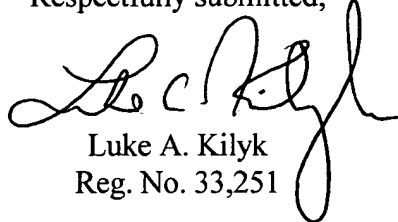
The Applicants believe that the foregoing arguments demonstrate the clear patentability of the claimed invention over the cited reference. However, the Examiner is encouraged to contact the undersigned by telephone, if there are any remaining questions concerning the patentability of the present claims or any administrative matters that require attention.

**CONCLUSION**

In view of the foregoing remarks, the Applicants respectfully request the reconsideration of this application and the timely allowance of all the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



Luke A. Kilyk  
Reg. No. 33,251

Atty. Docket No. 3190-004  
KILYK & BOWERSOX, P.L.L.C.  
53A Lee Street  
Warrenton, VA 20186  
Tel: (540) 428-1701  
Fax.: (540) 428-1720